



CITY OF DALY CITY

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April 2, 2009

MRP Tentative Order Comments

Attn: Dale Bowyer
San Francisco Bay Regional Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments on the Tentative Order for the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit dated February 11, 2009

Dear Mr. Bowyer:

The City of Daly City offers the following comments on the February 11, 2009 revised draft municipal regional stormwater permit. Our intent is for these comments to contribute to a constructive dialog that result in additional permit revisions.

The City of Daly City and its subsidiary, the North San Mateo County Sanitation District, appreciates the opportunity to provide comments on the Municipal Regional Permit (MRP) Tentative Order. Both the City and District are local government agencies, serving a City population of approximately 106,000 with sewer collection and wastewater treatment services provided for some 120,000 area residents. We are governed by elected officials and managed by certified professionals dedicated to protecting our water environment and public health. Daly City is one of twenty-two permittees listed in the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP) Permit and is the largest city in San Mateo County.

The City would like to acknowledge its support and incorporation by reference into the administrative record, several documents submitted in the December 2007 version of the municipal regional stormwater permit:

- Comments submitted by the City of Daly City on February 29, 2008 in regards to the December 2007 version of the tentative order.
- Comments that have been submitted by the municipalities that are members of the Countywide Program, the Bay Area Stormwater Management Agencies Association, the Santa Clara Valley Urban Runoff Pollution Prevention Program, including Bob Falk's comments on legal issues, and the comments provided by the Alameda Countywide Clean Water Program, including the comments provided by Gary Grimm on legal issues.
- All prior comments that Bay Area Stormwater Management Agencies Association or its member agencies have made. This includes all of the comments that were referred to in these previous submittals.

As requested the City is not providing comments that were submitted in our previous transmittal. Based on the Regional Board's summarized response to comments received on March 18,

2009, it appears some of those issues have been addressed; however, those that have not been addressed satisfactorily are still valid.

It is noted that this version of the Tentative Order shows improvement and has made progress in what permittees believe is the right direction; however, there are still major items of concern. The City believes that further movement in this positive direction is essential.

Daly City's specific comments on new issues are included as an Attachment and represent a variety of issues from a broad spectrum of municipal concerns from planning, engineering, public works, water and wastewater resources, and park landscaping staff.

GENERAL COMMENTS

The following categorizes some common types of problems that occur in the revised draft municipal regional stormwater permit.

- The costs to implement the provisions contained within the MRP are significant. A preliminary cost analysis conducted by staff for the 2007 version indicates that costs for just the City's program will be upwards of \$3.6 million for labor and approximately \$8.2 million for capital during the 5-year permit cycle. It is estimated that this new version reduces that amount by only 10%, retaining upwards of \$3.24 million for labor and just under \$7.4 million for capital improvements.
- Social Policy – It is not appropriate to saddle permittees for personal and individual behaviors (littering) or for distributing legal products (plastic bags, Styrofoam; pesticides etc.) The MRP attempts to have agencies cure these societal issues. Nevertheless, Daly City has conducted a study session to look at various options to reduce this type of waste. Currently there is an informal policy that bans the use of Styrofoam at city facilities. The City Council is in the process of determining if a Citywide ban is achievable.
- The level of effort required to accomplish the numerous tasks in this MRP are overly ambitious and limits the permittees ability to be successful.
- A form of exemption needs to be included when a permit requirement is considered unattainable (such as trash requirements when pipes are mostly subterranean).
- A number of the permit's provisions, such as Provisions C.3 New Development and Redevelopment, C.6 Construction Site Control, and C.15 Exempted and Conditionally Exempted Discharges, remain overly prescriptive and will require additional staff time dealing with an unnecessary amount of information tracking and reporting unrelated to improving water quality.
- Despite a decline in the number of unsound and technically questionable permit requirements, there still remain a number of areas that need modification.
- The control actions needed to comply with some of the permit's requirements are unpredictable because they may be triggered by monitoring results, such as Provision C.8.e.i.(3). An additional uncertainty is posed by having to achieve an arbitrary and potentially unrealistic trash and litter clean up level.

- Some of the permit's implementation and reporting dates are unrealistic and should be extended.

The draft TO continue to establish unnecessary, prescriptive and inflexible approaches to these stormwater regulations and encompasses a number of performance deadlines for implementation that are unreasonably aggressive to accomplish both from available local resources and the technology now in practice. The element is especially evident as it pertains to the monitoring effort and expense that is anticipated absent any real substantive benefit to water quality. Daly City's comments on the Tentative Order is not an objection of its responsibility to improve the water quality of stormwater, but rather what can be reasonably accomplished in the next five years. It is important that programs are prioritized and phased in over a number of permit cycles, not just one in order to gain success and desired improvements.

At the local level it is essential to have a permit that is practical, predictable, and cost-effective. As you are aware, the current economic downturn is one of the worst since the great depression and the result is presenting unique challenges among the many agencies in the Bay Area. Specifically, Daly City has been hit especially hard with the most foreclosures in San Mateo County. In addition, a number of major retail businesses in the city have closed or have filed for bankruptcy. The loss of revenue has put the City's General Fund in a serious financial crisis. A number of measures are currently being enacted to enable our City to sustain its economic vitality. Those measures include eliminating public service programs, salary and vacancy freezes and furloughs affecting every employee in the City. In these unprecedented economic times, the City believes that securing the funding needed to implement the many aspects of this program under a Proposition 218 voter approval process will be futile at best. A number of aspects contained within the MRP require additional and focused work aimed toward achieving water quality benefits that will increase costs by 100% in some cases. The San Francisco Regional Board must also recognize the very real financial constraints facing local governments, now more so than ever. In addition, it is important to the City that the permit avoids shifting the San Francisco Bay Regional Water Quality Control Board's (Water Board) pollutant control and cleanup responsibility to local public agencies. The comments submitted by this District and the other Bay Area agencies present a more realistic program that will create the framework for success.

The following attachment illustrates some specific examples of problems the current draft of the permit poses for the City and our requested change to the permit. For a more comprehensive list of issues and requested permit changes, please refer to the Countywide Program's List of Issues Table that was included with the Countywide Program's comment letter.

We request that you direct your staff to modify the permit based on these and other comment letters submitted by The City of Daly City and other members of the Countywide Program, the List of Issues Table included with the Countywide Program's comment letter, comments submitted by the Bay Area Stormwater Management Agencies Association, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. These and prior comment letters are included by reference.

Mr. Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Quality Control Board
Comments on the Tentative Order for the MRP dated February 11, 2009
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Daly City stands ready to work toward an achievable solution by amending the existing Tentative Order into a more achievable and practical permit that builds upon existing programs and phases in expanded programs in the next permit. It is for these reasons the City is asking the Board to direct staff to continue working with the stakeholders to address concerns submitted.

Thank you for your consideration of our comments and we look forward to receiving a response to comments in this letter and the attachment as well as presenting these issues at the May 13, 2009 public hearing.

Sincerely,


Patricia E. Martel
City Manager

Attachment: Daly City Local MRP Comments

c: Patrick Sweetland, Director of Water and Wastewater Resources

MUNICIPAL REGIONAL STORMWATER PERMIT (MRP)**List of Major Issues – Daly City**April 3rd Submittal on February 11, 2009 MRP Version

The City would like to acknowledge its support and incorporation by reference into the administrative record for adoption, Comments submitted by the City on February 29, 2008, and others, in regards to the December 2007 version of the MRP tentative order.

Also, comments and tables that are covered in San Mateo Countywide Pollution Prevention Program (SMCWPP), the Bay Area Stormwater Management Agencies Association (BASMMA), and the Santa Clara Valley Urban Runoff Pollution Prevention Program's (SCVURPPP) comments letters of the February 09 version may not be repeated in the following tables; however, the City concurs with their expressed concerns and requested changes as well.

C.2 Municipal Operations

Provision	Provision Heading	Issue	Requested Change
C.2.a.i	Task Description	The addition of the reference to the SQAHMO re-instates many of the deletions from the C.2 section of the 12/07 TO. This document broadly covers all aspects of C.2. Municipal Operations but it is specifically referenced to C.2.a. It is unclear whether this reference is intended only for C.2.a or could it be applied to the entire C.2 Municipal Operations of the 2-09 TO?	Clarify intention.
C.2.a.i.(1) and C.2.b.i.		“Permittees shall coordinate with sanitary sewer agencies to determine if disposal to the sanitary sewer system is available for the wastewater generated from these activities provided that appropriate approvals and pretreatment standards are met.”	What does this mean? How do you enforce “shall coordinate to determine”?
C.2.f.i.(1)	Task Description – Corporation Yard Maintenance	Added reference to the Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003, and its addenda (referenced addenda could not be found). This document is over 250 pages and covers the entire stormwater program for all Caltrans maintenance activities.	For clarity, this should cite specific sections that deal with Corporation Yard BMPs

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C.3 New Development and Redevelopment

Provision	Provision Heading	Issue	Requested Change
C.3.b.iii and C.3.b.iii.v.(2)	Green Street Pilot Projects vs. Pilot Green Streets Project Reporting	Different Titles	Please make language consistent with section C.3.b.iii.
C.3.c.i.(4) & (5)	Low Impact Development –Site Design Requirements	Clarify timeline for response from Water Board Executive Officer upon notification from jurisdiction and whether this is for notification purposes only, or must we wait for approval from the Water Board Executive Officer prior to discretionary approval?	Clarify intention. If waiting for approval is required, this will have to be built into discretionary approval timeline if we have to receive approval prior to discretionary approval
C.3.c.i.(6)	Low Impact Development –Site Design Requirements	Unclear as to how the process will be administered.	Clarify timeline for response and approval/denial from Water Board Executive.
C.3.e.	Alternative Compliance with Provision C.3.b	Alternative compliance with the hydraulically sized stormwater treatment under C.3.d has been eliminated from this heading of the permit. It is important that the permit allow flexibility for situations where hydraulically sized stormwater treatment is not possible. It also unclear whether the Water Board staff intended to delete Alternative Compliance from Provision C.3.d from this heading since this section describes an exemption from installing hydraulically-sized stormwater treatment systems.	Insert back into the heading for Provision C.3.e. an allowance for alternative compliance with C.3.d.
C.3.e.i.(1)(d)(1).	Alternative Compliance with Provision C.3.b	The permit places a cap on number of parking spaces.	Justify cap on parking spaces in residential development found in TOD definition

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Provision	Provision Heading	Issue	Requested Change
C.3.e.iii.(1)	Implementation Level	The permit requires rescinding existing alternative compliance programs.	Include existing alternative compliance programs. Specify cut off date for projects that have been approved for alternative compliance that would require the Permittee to rescind the approval and require conformance to existing permit.
C.3.f.	Alternative Certification of Stormwater Treatment Systems	Intention unclear	Clarify verification requirements for third party reviewers (copies of certificates, etc.) and the level of reporting and recordkeeping required by Permittee.

C.4 Industrial and Commercial Site Controls

Provision	Provision Heading	Issue	Requested Change
C.4.b.ii.(4)(d)	Types/Contents of Inspections	This section requires permittee to verify coverage	The Water Board should determine if coverage is required under the General Industrial Permit, not the Permittee. Please clarify.

C.5 Illicit Discharge Detection and Elimination

Provision	Provision Heading	Issue	Requested Change
C.5.f.ii.	Tracking and Case Follow Up – Implementation Level	The information tracked is overly prescriptive and unnecessary. Information tracking about the response times will divert resources from doing the actual illicit discharge detection and elimination work.	Remove the detailed information listed in this permit section. Nevertheless, if not removed the Implementation schedule should be changed to July 1 st , 2010 or later to allow sufficient time to develop the plan.

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C.6 Construction Site Control

Provision	Provision Heading	Issue	Requested Change
C.6.b.i.(3)	Implementation Level	Can not meet date of implementation	Change implementation schedule to July 1, 2010.
C.6.e.ii(2)	Implementation Level	Area of responsibility	Inspectors are given pre-wet season inspection checklist to for project that may cause sediments to flow beyond property lines. Area of enforcement responsibility must be established i.e. within property line and public right of way).

C.7 Public Information and Outreach

Provision	Provision Heading	Issue	Requested Change
C.7.e.ii	Implementation Level	1. More clarification is needed in what constitutes an outreach event. Are local pollution prevention messages in a community newsletter or utility bill considered outreach events? 2. This requirement is very similar to C.7.g. Request combining public outreach events and citizen involvement events into a single requirement.	1. Please clarify. Outreach events such as messages will reach more of an audience than as an example, a Farmers Market. 2. Combine C.7.e and C.7.g
C.7.g.ii	Implementation Level	1.Number of events 2. This requirement is very similar to C.7.e. Request combining public outreach events and citizen involvement events into a single requirement	1. Eliminate the requirement that puts a number on the events required. The focus should be on quality of events not quantity. 2. Combine C.7.e and C.7.g

C.8 Water Quality Monitoring

Provision	Provision Heading	Issue	Requested Change
Various	Various	See BASMMA, SMCWPPP and SCVURPPP Comments	See BASMMA, SMCWPPP and SCVURPPP Suggestions for changes

MUNICIPAL REGIONAL STORMWATER PERMIT (MRP)**List of Major Issues – Daly City**April 3rd Submittal on February 11, 2009 MRP Version**C.9 Pesticides Toxicity Control**

Provision	Provision Heading	Issue	Requested Change
Various	Various	See BASMMA, SMCWPPP and SCVURPPP Comments	See BASMMA, SMCWPPP and SCVURPPP Suggestions for changes.

C.10 Trash Reduction

Provision	Provision Heading	Issue	Requested Change
C.10.a.i& ii.	Goal Statement and Trash Hot Spot Selection	The Board should define what they mean by “Storm.” For example, they could define it as precipitation exceeding .x inches in a 24 hour period.	Clarification
C.10.a.ii.	Trash Hot Spot Selection	Trash Hot Spots are defined as at least 100 yards of creek length or 200 yards of shoreline length. They should be accessible aquatic sites that are most impacted by accumulation of trash. Daly City’s system is mostly subterranean. We have no aquatic sites or shorelines that are within the city’s borders. Our system discharges into systems within and under the control of the cities of San Francisco, Brisbane, South San Francisco, and Pacifica. The city does not believe it can meet the mandates of this section or other sections related to this section.	Provide exemptions to subterranean systems or define how compliance would be achieved.
C.10.d.ii.	Reporting	Annual Report directs Permittees to report adoption and implementation of all existing and relevant local laws and ordinances which impact on how solid waste, trash and litter are managed and litter reduction enforced. Why is the Board pushing each Municipality impacted by the MRP to enact local laws and ordinances for trash litter management and reduction?	This would be much more effective if these laws were enacted at the state level. The Board should use its legislative relations branch to advocate a statewide effort via the state legislature.

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C.11 Mercury

Provision	Provision Heading	Issue	Requested Change
Various	Various	See BASMMA and SMCWPPP Comments	See BASMMA and SMCWPPP Comments

C.12 PCBs

Provision	Provision Heading	Issue	Requested Change
Various	Various	See BASMMA and SMCWPPP Comments	See BASMMA and SMCWPPP Comments

C.15 Exempted and Conditionally Exempted Discharges

Provision	Provision Heading	Issue	Requested Change
C.15.b.i.	Discharge Type	Pumped groundwater could be potable drinking water wells and irrigation wells which do not contain chlorine or other added chemicals and are considered safe.	Delete from conditionally exempted discharges to exempted discharges defined as permitted sources of potable drinking water from ground water wells.
C.15.b.iii.(2)(c)	Notification and Reporting Requirements	This onerous reporting is almost identical to reporting of sewage overflows. This goes beyond reasonable requirements.	Delete from the section

Attachment J – Standard Provisions and Reporting Requirements

Provision	Provision Heading	Issue	Requested Change
All	All	This is still mostly related to POTW's. Most are not applicable to stormwater conveyance systems.	Work with stakeholders to develop a more appropriate document that is for stormwater and not POTW facility requirements.